

**DEPARTMENT OF VETERANS AFFAIRS  
OFFICE OF RESOLUTION MANAGEMENT**



**ROOT CAUSE:  
Preliminary Assessment of the Underlying Cause  
for Initiating Discrimination Complaints  
Quarterly Digest**

**Reporting Period:  
3<sup>rd</sup> Quarter  
April 1, 2002 – June 30, 2002**

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**ROOT CAUSE: Preliminary Assessment of the Underlying Cause  
For Initiating Discrimination Complaints  
Summary and Analysis**

Public Law 105-114 mandates that the Department of Veterans Affairs establish and administer an employment discrimination complaint resolution system that provides timely and fair resolution. Moving towards this goal of timely and fair resolution, the Office of Resolution Management (ORM) developed the Root Cause Analysis (RCA) Report. This report is designed to capture the possible root causes or the underlying reasons why employees file complaints of discrimination that clearly are not appropriate for addressing through the EEO process.

The RCA looks at complaints, which are informally resolved, with or without a written settlement agreement, dismissed, or withdrawn. This report collects data on the claims, bases, and the underlying causes for which individuals seek resolution through the EEO process. The primary and secondary underlying causes are as follows:

**Employer versus employee value systems differ:**

***Conflicting work ethics  
Conflicting personal values***

**Inconsistent or unequal application of rules and regulations:**

***By Supervisor Among/Between Employees  
Among/Between Supervisors and Managers  
Among/Between Services and Departments***

**Lack of understanding/appreciation/awareness of diversity and language/disability:**

***Among/Between Employees  
Among/Between Supervisors and Employees***

**Personal problems which can spill over into the working environment:**

***Impact is relatively limited to the immediate employee  
Impact spills over to the other members of the staff***

**Resources to accomplish desired results are not available  
or not appropriately utilized:**

***Human resources  
Financial resources  
Organizational resources  
Technical resources***

**Rules and/or regulations are not established, published, or adequately  
disseminated opening up to many interpretations:**

***Between Services or Departments  
Within a Service or Department***

The potential for resolution is the greatest at the earliest stages of the EEO process. The EEO counselor has an opportunity to obtain the complainant's and the responding management official's (RMO) perspectives on the causes of conflict. The responses enable the counselor to assess the underlying cause(s), which may or may not be resolved with the assistance of the alternative dispute resolution (ADR) program. ORM counselors determine the underlying causes for the conflict.

# ROOT CAUSE: Preliminary Assessment of the Underlying Cause For Initiating Discrimination Complaints Summary and Analysis

During the informal stage of the EEO complaint process, many complaints are settled. Throughout the third quarter, approximately 19% of the complaints initiated were settled by way of a settlement agreement, withdrawn, or administratively closed because the complainant chose not to pursue it. This is a 4% increase over the combined numbers for the first and second quarters of fiscal year 2002 (FY 02). The claims raised ranged from failure to promote/non-selection to awards to assignment of duties. Resolutions consisted of reasonable accommodations, reinstatements, and records purging.

*Employer versus Employee Value Systems Differ* was identified for the third quarter, consecutively; the primary underlying cause for settlements and withdrawals. This continues to be the most likely cause of conflict, as well as the one most easily resolved. Resolutions are reached because of effective communications; the ability of all involved to compromise, and their desire and commitment to resolve the problem at hand. The EEO counselor, the ADR Program coordinator, the mediator, and/or the program manager were the mediums for resolution for the cases settled or withdrawn.

During the third quarter, approximately 1206 informal contacts were initiated with over 1440 different claims and/or bases. Figure 1 portrays an overview of the claims and bases identified in the informal contacts. Consistent with second quarter's statistics, the basis most identified was race. ***Complaints initiated with a basis of disability are steadily increasing, which leads one to presume that the increase might be due to a lack of understanding and/or awareness of the guidelines set forth under the Americans with Disabilities Act.***

Figure 1

Basis →	Race	Sex	Reprisal	Religion	National Origin	Disability	Age	Other	Total
Claims ↓									
Assignment of Duties	21	17	28	0	0	18	11	9	104
Awards	1	1	1	0	0	0	2	1	6
Disciplinary Action Removal/Termination	63	15	39	5	12	52	21	16	223
Equal Pay Act Violation/Pay	8	12	3	0	0	3	4	0	30
Evaluations/Appraisals	4	7	7	0	0	1	4	0	23
Failure to Promote-Non-Selection	78	23	26	2	11	30	47	7	224
Harassment – Non-Sexual	88	72	87	8	14	52	33	27	381
Other	56	39	46	3	6	34	17	7	208
Reasonable Accommodation	1	1	4	0	0	40	1	2	49
Sexual Harassment	4	21	1	1	0	0	0	2	29
Terms & Conditions of Employment	17	7	7	0	5	13	7	5	61
Time & Attendance Duty Hours	13	16	16	1	0	20	11	7	84
Training	6	4	3	0	2	2	1	0	18
Totals	360/25%	235/16%	268/19%	20/1%	50/4%	265/18%	159/11%	83/6%	1440

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**Americans with Disabilities Act (excerpt)**

<http://www.eeoc.gov/docs/accommodation.html>

Title I of the Americans with Disabilities Act of 1990 (the “ADA”) requires an employer to provide a reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship. “In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.”

Reasonable accommodation is available to qualified applicants and employees with disabilities. Reasonable accommodations must be provided to qualified employees regardless of whether they work part-time or full-time, or are considered “probationary.” Generally, the individual with a disability must inform the employer that an accommodation is needed.

A family member, friend, health professional, or other representative may request a reasonable accommodation. Requests for reasonable accommodation do not need to be in writing. Individuals may request accommodations in a conversation or may use any other mode of communication.

When the disability and/or the need for accommodation is not obvious, the employer may ask the individual for documentation about the disability and functional limitations.

**Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the  
Americans with Disabilities Act**

When individuals decide to request a reasonable accommodation, they must let the employer know that they need an adjustment or change at work for a reason related to a medical condition. To request accommodation, an individual may use “plain English” and need not mention the ADA or use the phrase “reasonable accommodation.” For example:

**Example A:** An employee tells her supervisor, “I’m having trouble getting to work at my scheduled starting time because of medical treatments I’m undergoing.” This is a request for a reasonable accommodation.

**Example B:** An employee tells his supervisor, “I need six weeks off to get treatment for a back problem. This is a request for a reasonable accommodation.

**Example C:** An employee tells his supervisor that he would like a new chair because his present one is uncomfortable. Although this is a request for a change at work, his statement is insufficient to put the employer on notice that he is requesting reasonable accommodation. He does not link his need for the new chair with a medical condition. This is not a request for reasonable accommodation.

# **ROOT CAUSE: Preliminary Assessment of the Underlying Cause For Initiating Discrimination Complaints Summary and Analysis**

Figure 2 identifies the primary underlying causes for filing claims of employment discrimination. Counselors believe that *Employer versus Employee Value Systems Differ* was again the primary reason the claim of harassment (non-sexual) was filed more than other claims. Consistent with first and second quarter's statistics, this underlying cause is also the number one reason individuals engage in the EEO process, regardless of the claim. It should be noted that *Personal Problems, which can spill over into the working environment* rates as the second most underlying cause. This reflects a change from the first and second quarter's statistics.

**Figure 2**

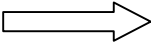

Underlying Causes →	Employer vs. Employee Values Differ	Inconsistent or Unequal Application of Rules	Lack of Understanding of Diversity	Personal Problems	Resources Not Available	Rules not Established or Published	Totals
Claims ↓							
Assignment of Duties	15	16	4	21	3	5	64
Awards	1	0	0	0	0	0	1
Disciplinary Action/Removal Termination	53	17	19	33	3	12	137
Equal Pay Act Violation/Pay	6	9	0	3	0	0	18
Evaluations /Appraisals	9	2	0	0	1	0	12
Failure to Promote/ Non-Selection	36	31	12	19	14	18	130
Harassment Non-Sexual	94	56	32	73	3	7	265
Other	55	21	18	27	7	10	138
Reasonable Accommodation	8	5	7	15	1	14	50
Sexual Harassment	10	1	3	3	1	0	18
Terms & Conditions of Employment	15	4	7	11	4	4	45
Time & Attendance /Duty Hours	19	20	5	12	1	2	59
Training	3	2	0	1	3	0	9
<b>Totals</b>	<b>324/34%</b>	<b>184/20%</b>	<b>107/11%</b>	<b>218/23%</b>	<b>41/4%</b>	<b>72/8%</b>	<b>946</b>

In many scenarios, the root cause of the disagreement that occurs in the workplace requires personal scrutiny; not necessarily by others, but by self. The reality of the situation is that the only person, who can effect change on ones self, is the individual. However, for change to occur, one must take an unbiased look at themselves; their actions, their inaction, and their interactions with others. Unless the person reviewing self concedes that change is needed, there can and will be no change. Consequently, as the workplace environment changes and people do not, conflict and its negative impact on the organization will continue.

**ROOT CAUSE: Preliminary Assessment of the Underlying Cause  
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Figure 3 identifies the claims raised during the 3<sup>rd</sup> quarter. Since it also identifies the secondary, as well as the primary underlying causes, it provides a more definitive view of why individuals perceive they are experiencing discrimination. Consistent with the establishing trend, the primary root cause for 3<sup>rd</sup> quarter is again *Employer vs Employee Value Systems Differs*.

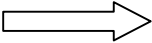

**Figure 3**

<div style="text-align: center;"> <b>Claims</b>   </div>	Assignment of Duties	Awards	Disciplinary Action/Removal	Equal Pay Act Violation	Evaluation or Appraisals	Failure to Promote/Non-Selection	Harassment Non-Sexual	Other	Reasonable Accommodation	Sexual Harassment	Terms & Conditions of Employment	Time & Attendance	Training	Totals
<b>Underlying Causes</b> 														
Employer v Employee - Conflicting Work Ethics	9	7	49	0	2	0	49	56	0	0	0	1	0	173
Employer v Employee - Conflicting Personal Values	10	4	26	3	7	4	45	29	2	5	9	7	0	151
Inconsistent Application - Supervisor between Employees	12	0	13	3	2	14	60	9	4	2	4	9	2	134
Inconsistent Application – Among or Between Supervisors	3	0	0	4	0	5	11	4	1	0	0	4	0	32
Inconsistent Application – Among or Between Services or Departments	0	0	2	2	0	0	3	6	1	1	0	3	0	18
Lack of Understanding - Between Employees	3	0	12	0	0	4	12	5	2	1	4	2	0	45
Lack of Understanding – Among Supervisors and Employees	1	0	6	0	0	8	21	13	5	2	3	3	0	62
Personal Problems – Impact Limited to Employee	4	10	8	0	0	1	33	21	7	1	2	3	0	90
Personal Problems – Impact Spills Over to Other Employees	11	0	25	3	0	1	40	19	8	2	9	9	1	128
Resources Not Available – Human Resources	0	0	0	0	0	4	5	6	0	0	0	0	0	15
Resources Not Available- Financial Resource	1	0	1	0	0	0	1	0	0	0	0	0	0	3
Resources Not Available – Technical Resources	2	0	0	0	0	0	0	0	0	1	1	0	1	5
Resources Not Available – Organizational Resources	2	0	1	0	1	6	1	1	1	0	3	1	1	18
Rules/Regulations Open to Interpretation – Between Services	3	0	8	0	0	13	12	7	1	2	2	2	0	50
Rules/Regulations Open to Interpretation – Within a Services	2	0	7	0	2	0	5	3	1	0	2	0	0	22
<b>Totals</b>	<b>63</b>	<b>21</b>	<b>158</b>	<b>15</b>	<b>14</b>	<b>60</b>	<b>298</b>	<b>179</b>	<b>33</b>	<b>17</b>	<b>39</b>	<b>44</b>	<b>5</b>	<b>946</b>

**ROOT CAUSE: Preliminary Assessment of the Underlying Cause  
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Figure 4 shows the relationship between the bases and the primary and secondary underlying causes. The predominate bases raised during the third quarter were race, reprisal, and disability, respectively. This reflects a change from the first and second quarters where race, reprisal, and sex, were the predominate bases.

**Figure 4**

<b>Basis</b> 	<b>Race</b>	<b>Sex</b>	<b>Reprisal</b>	<b>Religion</b>	<b>National Origin</b>	<b>Disability</b>	<b>Age</b>	<b>Other</b>	<b>Totals</b>
<b>Underlying Causes</b> 									
Employer v Employee - Conflicting Work Ethics	50	35	47	1	4	29	18	14	198
Employer v Employee - Conflicting Personal Values	47	35	26	6	5	22	21	10	172
Inconsistent Application - Supervisor between Employees	29	16	31	5	3	20	8	7	119
Inconsistent Application – Among or Between Supervisors	8	4	4	0	1	6	4	2	29
Inconsistent Application – Among or Between Services or Departments	5	17	8	0	0	6	1	2	39
Lack of Understanding - Between Employees	17	8	1	1	1	12	1	1	42
Lack of Understanding – Among Supervisors and Employees	19	6	15	0	0	8	10	3	61
Personal Problems – Impact Limited to Employee	7	10	17	1	1	16	5	9	66
Personal Problems – Impact Spills Over to Other Employees	28	18	27	2	5	31	22	10	143
Resources Not Available – Human Resources	4	2	4	0	0	2	2	1	15
Resources Not Available- Financial Resource	0	0	1	0	1	0	1	0	3
Resources Not Available – Technical Resources	3	1	5	0	0	5	4	0	18
Resources Not Available – Organizational Resources	1	1	1	0	0	1	1	1	6
Rules/Regulations Open to Interpretation – Between Services	9	5	8	0	1	9	4	2	38
Rules/Regulations Open to Interpretation – Within a Services	4	1	4	0	0	6	4	3	22
<b>Totals</b>	<b>231</b>	<b>159</b>	<b>199</b>	<b>16</b>	<b>22</b>	<b>173</b>	<b>106</b>	<b>65</b>	<b>971</b>



## **ROOT CAUSE: Preliminary Assessment of the Underlying Cause For Initiating Discrimination Complaints Summary and Analysis**

The goal of the Root Cause Analysis remains the same, which is to find out what happened, why it happened, and what can be done to prevent it from recurring. When the root of the problem is identified and dealt with appropriately, the chances of its recurrence are slender.

The Root Cause Quarterly Digest that follows describes each scenario based on the primary root cause coupled with their sub-categories. Each scenario presents a picture of what happened and why it happened from the perspective of the complainant and the responsible management official. A brief analysis of the situation is included, along with a recommendation for preventing a recurrence of the situation. By describing these situations and providing an alternative view of how the scenario might have been handled, we hope the Root Cause Digest will become a viable learning instrument to be used to seek out the root of a problem (the reason why) and eliminate the problem areas that lead to disagreement and conflict. These problem areas demonstrate the need for employees and management alike to educate themselves on what makes them tick and how to adjust the timer if and/or when needed.

***“If not here; where;  
If not now; when?  
If not you; who?”***  
*-Morris Massey-*

**Resources Available:** The first step in the direction of education and awareness is available through various venues. For example, at a press briefing in Washington, officials from the Office of Personnel Management and Office of Management and Budget unveiled the Government Online Learning Center at [www.golearn.gov](http://www.golearn.gov). Federal employees can enroll in the courses, which take from two hours to eight hours to complete, at no charge to themselves or their agencies. Some of the courses available are:

- **Communication**
- **Conquering Conflict through Communication**
- **Leadership**
- **Management**
- **Personal Development**
- **Interpersonal Communication: Effective Communication**

In addition, the VA *Virtual Learning University* is a possible source for training sessions. Federal workers can also take free online courses on about 30 subjects ranging from project management to coping with stress. Education, coupled with adaptability and respect of self and others will go a long ways in changing the workplace in a positive manner.

To further enhance our knowledge of the impact that personal values and change has on each one of us, enclosed are three articles that provide the following: (a. insight into the concept of root cause analysis, (b. awareness relating to values and their impact on our lives, and (c. steps to take if you are interested in making a change.

**ROOT CAUSE: Preliminary Assessment of the Underlying Cause  
For Initiating Discrimination Complaints  
Summary and Analysis**

We tend to focus mostly on what's wrong in the work environment, while paying little or no attention to what appears to be going right. The statistics show that during the first through third quarters, the claims of Awards, Evaluations/Appraisals, and Training have consistently represented less than 5% of the claims filed during FY 02. In addition, the claim of sexual harassment appears to show a slight decrease over the numbers reflected in second quarter.

In closing, know that there is always potential for more resolution of employment related issues earlier in the EEO process when managers and employees use ADR as a viable alternative to solving workplace disputes. ***There is evidence to support the fact that, if management and employees continue to enter into the process with open minds, reasonable resolutions are attainable.*** According to the article written by Cliff Havener and Margaret Thorpe, entitled *The Root Cause of Conflict and the Ultimate Resolution of It*, the root cause of conflict and the ultimate resolution, regardless of the claim, is exposed by considering the fact that the main reason organizations are experiencing such problems is because the organizations consist of individuals that come from all walks of life and all economical statuses. These individuals bring with them all sorts of experiences; some good, some bad; some unforgettable, some regrettable. Mr. Havener and Ms. Thorpe provide that in life there are two operating systems. Systems that acknowledge their interdependence with their environment are open systems; systems that do not are closed. Therefore, a machine, which can only do what they were built to do the way they were built to do it, would be considered a closed system. When change occurs, machines have no innate ability to adjust to the change. In comparison, humans are open systems. We adjust what we do and how we do it in relations to the conditions we face, minute to minute, day to day. We do this to optimize our chances of survival and well-being. We, for the most part are "adaptive." However, our systems can either be open or closed, depending on the individual and/or the situation. The root cause of human conflict is closed systems. To be closed or open is a choice, albeit a tough choice in some cases, but still a choice. Unlike machinery, we do have the innate ability to recognize and adjust to change.

**Normalcy, the "closed" view of reality,  
is the primary obstacle to becoming  
open and integrative.  
We cannot truly resolve conflict  
until we can unlearn it.**

*-Unknown-*

/s/  
**James S. Jones  
Deputy Assistant Secretary  
for Resolution Management**

*Enclosures*

# Root Cause Analysis

Written by Gene Bellinger, Outrights

If I have an unwanted situation which consumes resources and tends to happen in a repeated fashion then there is a possibility that it might be beneficial to figure out what is really causing this situation to occur and remove it so the situation does not occur again. This is generally referred to as Root Cause Analysis, finding the real cause of the problem and dealing with it rather than simply continuing to deal with the symptoms. This raises several questions:

- How does one determine which situations are candidates for root cause analysis?
- How does one figure out what the root cause is?
- Does the removal of the cause entail less resource expenditure than it takes to continue to deal with the symptom?

## **Determining Candidates:**

In normal chaotic organizational environments, it is often quite difficult to find candidates for root cause analysis, because the situations, which repeat are either distributed over time so one doesn't realize they are actually recurring, or the situation happens to different people so there isn't an awareness of the recurring nature of the situation. When an organization is using an automated problem resolution support system, such as Solution Builder, it is very easy to determine which situations are recurring with what frequency. Since every time a solution is used it's frequency counter gets updated all one has to do is run reports against the system to determine which solutions are being used with what frequency. Those situations, which are recurring with the greatest frequency and consume the greatest amount of resource to rectify, are the candidates for root cause analysis.

## **Finding the Root Cause:**

Most situations, which arise within an organizational context, have multiple approaches to resolution. These different approaches generally require different levels of resource expenditure to execute. And, due to the immediacy, which exists in most organizational situations there is a tendency to opt for the solution which is the most expedient in terms of dealing with the situation. In doing this, the tendency is generally to treat the symptom rather than the underlying fundamental problem that is actually responsible for the situation occurring. Yet, in taking the most expeditious approach and dealing with the symptom rather than the cause what is generally ensured is that the situation will, in time, return and need to be dealt with again.

Consider the specific example of expediting customer orders in an order fulfillment process. The organization has a well-defined process for accepting, processing, and shipping customer orders. When a customer calls and complains about not getting their order the most normal response is to expedite. This means that someone personally tracks down this customer's order, assigns it a #1 priority, and ensures it gets shipped ahead of everything else. What isn't realized, until sometime later on, if at all, is that in expediting this order one or more other orders were delayed because the process was disrupted to get this customer's order out the door. What it all comes down to is that expediting orders simply ensures that more orders will have to be expedited later. In systems terms this is a typical "Fixes that Fail" structure which evolves into an "Addiction" structure where the organization becomes addicted to expediting to deal with customer order complaints. The appropriate response to this situation is to figure out why the order was in need of expediting in the first place. Yet this is seldom done because the task assigned to the expeditor was, "get the order shipped!" and that's as far as the thought processes and investigation are apt to go. To find root causes there is one really only one question that's relevant, "What can we learn from this situation?" Research has repeatedly proven that unwanted situations within organizations are about 95% related to process problems and only 5% related to personnel problems. Yet, most organizations spend far more time looking for culprits than causes and because of this misdirected effort seldom really gain the benefit they could gain from understanding the foundation of the unwanted situation.

Consider the following two scenarios.

**Scenario # 1 (Invision your work environment and a similar situation)**

The Plant Manager walked into the plant and found oil on the floor. He called the Foreman over and told him to have maintenance clean up the oil. **(Note: He didn't ask why)** The next day while the Plant Manager was in the same area of the plant he found oil on the floor again and he subsequently raked the Foreman over the coals for not following his directions from the day before. His parting words were to either get the oil cleaned up or he'd find someone that would.

**Scenario # 2 (Communicating the problem and resolution options)**

The Plant Manager walked into the plant and found oil on the floor. He called the Foreman over and asked him why there was oil on the floor. The Foreman indicated that it was due to a leaky gasket in the pipe joint above. The Plant Manager then asked when the gasket had been replaced and the Foreman responded that Maintenance had installed 4 gaskets over the past few weeks and they each one seemed to leak. The Foreman also indicated that Maintenance had been talking to Purchasing about the gaskets because it seemed they were all bad. The Plant Manager then went to talk with Purchasing about the situation with the gaskets. The Purchasing Manager indicated that they had in fact received a bad batch of gaskets from the supplier. The Purchasing Manager also indicated that they had been trying for the past 2 months to try to get the supplier to make good on the last order of 5,000 gaskets that all seemed to be bad. The Plant Manager then asked the Purchasing Manager why they had purchased from this supplier if they were so disreputable and the Purchasing Manager said because they were the lowest bidder when quotes were received from various suppliers. The Plant Manager then asked the Purchasing Manager why they went with the lowest bidder and he indicated that was the direction he had received from the VP of Finance. The Plant Manager then went to talk to the VP of Finance about the situation. When the Plant Manager asked the VP of Finance why Purchasing had been directed to always take the lowest bidder the VP of Finance said, **"Because you indicated that we had to be as cost conscious as possible!"** and purchasing from the lowest bidder saves us lots of money. The Plant Manager was horrified when he realized that he was the **reason (THE COMMENTS HE MADE WERE THE ROOT CAUSE!!!!)** there was oil on the plant floor. Bingo!

You may find scenario # 2 somewhat funny, and laugh at the situation. It would be better if the situation made you weep because it is often all so true in numerous variations on the same theme. Everyone in the organization doing their best to do the right things, and everything ends up messed up. The root cause of this whole situation is local optimization with no global thought involved. Scenario # 2 also provides an good example of how one should proceed to do root cause analysis. Once simply has to continue to ask **"Why?"** until the pattern completes and the cause of the difficulty in the situation becomes rather obvious.

**To Resolve or Not To Resolve:**

Once the root cause is determined then it has to be determined whether it costs more to remove the root cause or simply continue to treat the symptoms. This is often not an easy determination. Even though it may be relatively easy to estimate the cost to remove the root cause it is generally very difficult to assess the cost of treating the symptom. This difficulty arises because the cost of the symptom is generally wrapped up in some number of customer and employee satisfaction factors in addition to the resource costs associated with just treating the symptom.

# **ROOT CAUSE: Preliminary Assessment of the Underlying Causes for Initiating Discrimination Complaints Quarterly Digest**

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## **Department of Veterans Affairs Office of Resolution Management**

### **Scenarios**

#### **Employer versus Employee Value Systems Differ: Conflicting Personal Values**

**Complainant's Perspective:** The complainant stated she was discriminated against based on race, sex, and color when she was not selected for a GS-13 position within her service. Complainant perceives that, because the supervisor of her section was one of the members on the interviewing panel, she was not selected, even though she was qualified. The complainant stated that the person selected was of the same race as the supervisor. She contends that the supervisor in question treated the other coworkers of his race more favorably than he treated her.

**RMO's Perspective:** Management provided that the complainant's race, color, and/or sex played no role in her non-selection. Management asserted that the person selected for the position had to be competent, confident, perform independently, and come up with analysis and designs. According to management, the complainant has not demonstrated these qualities or the abilities needed for the job. In addition, the complainant did not rank as one of the top three candidates for the position.

**Analysis:** It appears that the complainant's supervisor does not feel she possesses the confidence and competence the job warrants. The complainant was not selected for the position because of her responses, which showed her insecurity and lack of self-confidence during the interview. Her responses were not specific to the questions and she has a history of needing to be reassured of the quality of her work.

**Recommended Preventive Measure:** Selecting official communicates to non-selectee why they were not selected and what steps they should take to increase their chances for selection in the future.

#### **Employer versus Employee Value Systems Differ: Conflicting Work Ethics**

**Complainant's Perspective:** The complainant asserted she was discriminated against based on age when she was not selected for a full-time position. She was hired as a temporary employee, not to exceed one year, however, she wanted a permanent fulltime position. She applied on two different occasions for a fulltime GS-4 Clerk position, but was not successful. On both occasions, employees under the age of 40 were selected. The complainant contends that she worked very hard, including overtime when asked and when she was not selected for either of the fulltime positions, it lead her to believe the reason was her age.

**RMO's Perspective:** The RMO provided that, although she had discussed on more than one occasion with the complainant her failure to follow the chain of command and to come to her first, as the first-line supervisor when she had questions or concerns, these concerns did not enter into her selection process. The RMO contends that she hired who she thought was the best-qualified individual for the position; that age was not a factor in her selection.

**Analysis:** Testimony from all of the witnesses to the complaint revealed that the complainant was hard working, always on the job, and did her job well. The RMO did not say the complainant had performance problems. Basically, the complainant objected to the RMO telling her that the person she wanted to hire had to be dedicated, loyal and faithful to her. Even though the complainant knew the expectations of the RMO, failing to follow the chain of command during temporary employment appeared to have had some impact on the RMO's decision.

**Recommended Preventive Measure:**

Explain the significance of using the chain of command and the consequences that can occur when it is not used. Share the reasons why “dedicated, loyal, and faithful” are important.

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**Inconsistent and/or Unequal Application of  
Rules and Regulations:  
By Supervisor/Between Employees**

**Complainant’s Perspective:** The complainant, an Ear Nose and Throat (ENT) Technician, believed he was subjected to discrimination based on his race, when he was terminated for puncturing the eardrums of a patient. Complainant stated that the patient was struggling and resisting his efforts to clean one of his ears. He was using an instrument to clean the ear, but denied actually puncturing the ear. The complainant speculated that another employee might have punctured the patient’s ear. The complainant also indicated that he felt that whether or not he punctured the ear was beside the point, because an employee of a different race had punctured another patient’s eardrum and was not disciplined. The complainant believed the rules and regulations are applied inconsistently depending on the race of the employee whose actions are in question.

**RMO’s Perspective:** The RMO stated that the complainant admitted to using an instrument to clean the patient’s ear, which is something that is against policy. The RMO expressed that patient ears are only to be cleaned using an ear wash technique involving the introduction of low-pressure water into the ear. The RMO stated she had no knowledge of any other employee puncturing a patient’s eardrum; but that if it had occurred, the complainant had a responsibility to report it to management at the time of occurrence.

**Analysis:** Fact-finding efforts did not produce any witnesses who could corroborate the complainant’s claims regarding another employee’s like situation, nor did it reveal the inconsistency in the application of rules and regulations as it related to this particular situation and the policy violation that occurred.

**Recommended Preventive Measure:**

Considering that a policy was in place regarding the appropriate cleaning method for eardrums, the only preventive measure would have been for the employee to have followed the guidelines set forth in the policy. Ensure all employees certify that they have read and understand the policy on a consistent basis.

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**Inconsistent and/or Unequal Application of  
Rules and Regulations:  
Among/Between Supervisors  
and Managers**

**Complainant’s perspective:** The complainant felt she was discriminated against because of her race, when she was punished for the way she handled an altercation with another employee. However, no disciplinary action was taken against the other employee. The complainant and the employee had a dispute over whether a third employee could use the ice machines in the area. There are two ice machines, but the one employees used was broken, and the one located in the dining room was for patient use only. The dispute erupted into a heated argument, when the complainant proceeded to let the employee, who was responsible for the use of the ice machines know how she felt about the situation. The VA Police were called because the employee on the receiving end of the expression of feelings felt threatened by the complainant. The complainant was escorted to her supervisor’s office, reassigned and eventually issued a reprimand for her conduct.

**RMO’s Perspective:** The RMO felt the complainant did not properly handle the disagreement that developed over the use of the ice machine. The RMO believed the complainant used language and behavior that was threatening to the other employee. According to the RMO’s Service policy, this type of behavior warranted reassignment of the complainant to avoid further altercations and a reprimand for disrespectful conduct. The RMO did not have authority over the other employee because that employee worked in a different service.

**Analysis:** Additional fact-finding discovered there were several witnesses to the situation that lead to the argument between the complainant and the other employee. Only one person witnessed the allegedly threatening behavior displayed by the complainant towards the other employee. However, the Police stated that, when they arrived, the complainant continued her threatening behavior towards the other employee. The RMO said he used the witness testimonies, the Police report, and the other employee's statement to determine what happened and what disciplinary action should be taken. It appears the complainant did not use sound judgment in resolving the workplace dispute, however, the level of the disciplinary action is questionable given the fact that two individuals were involved in the altercation and only one was admonished.

**Recommended Preventive Measure:**

Workplace Violence training as a matter of practice, as well as policy that speaks to the appropriate procedures for addressing workplace disputes.

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**Lack of Understanding  
Appreciation/Awareness  
of Diversity and Language/Disability:  
Among/Between Supervisors  
and Employees**

**Complainant's Perspective:** The complainant felt she was being harassed and discriminated against based on religion, when she was verbally counseled by her supervisor and the Chief of the Service on how she practiced her religious beliefs and for being away from her desk frequently. The complainant provided that at the beginning of her workday and several times during the day she would pray, either by herself or with another employee. The complainant stated that some employees complained to management that they were doing all the work because she was never at her desk to answer the phone or to help patients that walked in for their appointments.

**RMO's Perspective:** The RMO stated the complainant's religious beliefs had nothing to do with the verbal counseling. He had received a call from the Director's Office informing him that no one was answering the phone in the unit. The RMO provided that he

went to the unit and noticed one other person in the office on a phone call and the complainant was not at her desk. He waited for approximately 25 minutes and the complainant did not return. The RMO stated when he asked the complainant's co-worker where she was, he was told she was on break. He departed the area and came back again approximately one hour later. This time the complainant was at her desk. However, roughly 45 minutes later he noticed her leaving the office again. The RMO stated he timed the complainant, and she was gone for 47 minutes. The RMO stated when he asked the complainant where she was, her response was that she had been praying with another employee.

**Analysis:** After the complainant was told why she had been verbally counseled, she stated she was in a high stress job and needed some type of stress relief, which is why she prayed so often. Because the RMO did not know what or why the complainant was leaving the area so much he was not aware that she was trying to relieve stress. Had he known, he could have referred the complainant to the Employee Assistance Program (EAP).

**Recommended Preventive Measure:**

Reiterate and enforce the agency's guidance on religious practices in the workplace. Ensure all employees are aware of the programs/courses available to assist them with stress, depression, etc.

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**Lack of Understanding  
Appreciation/Awareness  
of Diversity and Language/Disability:  
Among/Between Employees**

**Complainant's Perspective:** The complainant believed she was discriminated against based on her disability (short-term memory disorder), when she was denied a reasonable accommodation. After undergoing brain surgery to eliminate seizures, the complainant suffered loss of that part of the memory storage system that retains information for a brief period of time before it is transferred to long-term memory. In addition, she has difficulty with the interpretation and integration of new information, as well as previously stored information. To compensate

for this loss, the complainant takes notes on everything, in every situation. Only by the continual review and repetition of her notes can she commit information to long-term memory. The complainant informed management of her disability. However, she did not feel that management took her disability seriously, which she felt was evidenced by the fact that, when management sent her to training, they told her not to take notes. The complainant told the EEO counselor that, because she was afraid of losing her job, she never formally requested reasonable accommodation.

**RMO's Perspective:** The supervisor stated that she was not aware of the nature of the complainant's disability and the need for her to take notes to assist her in learning and retaining new information. After speaking with the EEO counselor, the RMO advised the complainant of the process to officially request a reasonable accommodation. Once the complainant submitted her request for reasonable accommodation, in keeping with the agency's policy, the RMO then submitted the request to the facility's reasonable accommodation committee.

**Analysis:** After the RMO obtained data regarding what's needed to request a reasonable accommodation and information pertaining to the nature of the complainant's disability, the complainant was able to request the accommodations required.

**Recommended Preventive Measure:** Familiarize and train managers on the guidelines set forth in the Americans with Disabilities Act and the Enforcement Guidance for Reasonable Accommodations and Undue Hardship.

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**Personal Problems Which Can Spill Over  
Into the Working Environment:  
Impact includes Other Members of Staff**

**Complainant's Perspective:** The complainant stated he was discriminated against based on race, when he was issued a written letter of counseling from the RMO regarding his sick leave usage. Complainant explained that he used his sick leave to care for his wife, who later passed away. He used

additional leave to take care of himself. In addition, the complainant felt that the nursing staff was harassing him, because they were continuously complaining about his attitude and behavior. On one occasion, he entered the nurse's break area to warm his lunch and the nurses indicated they did not want him there. Complainant informed his supervisor of the incident and asked to be moved to another area. No action was taken. The complainant felt that the RMO was not being supportive of him as an employee or a human being.

**RMO's Perspective:** The RMO provided that he was not aware of the problems the complainant was experiencing. The RMO explained that a leave review is conducted every six months for all staff members. When a pattern of leave is established, a written counseling is issued to ensure that the employee is aware of their leave usage and to encourage them to improve their time and attendance. The RMO contends that once he was made aware of the complainant's problems and current situation, he referred the complainant to the Employee Assistance Program (EAP) at the facility and moved him to another unit.

**Analysis:** It seems that there was a lack of communication between the complainant and the RMO. The complainant was going through a difficult time, which appears to have impacted on his behavior and attitude. Once the RMO was made aware of the situation, he took the appropriate action.

**Recommended Preventive Measure:** Sensitivity Training and Effective Communication Training for all employees and supervisors.

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**Personal Problems Which Can Spill Over  
Into the Working Environment:  
Impact is on Immediate Employee**

**Complainant's Perspective:** The complainant stated he was discriminated against based on race, when he was terminated and when his request for leave was denied. Complainant was experiencing financial problems, which led him to file bankruptcy. The complainant provided that he asked for two weeks of leave to take care of



his personal financial problems. The leave was approved, but the complainant eventually called his supervisor again and requested leave for the entire month. He asserted that he needed the time to try to acquire supporting documentation that pertained to the bankruptcy.

**RMO's Perspective:** The RMO stated the complainant was being terminated because of office conduct and extensive leave usage. The complainant did not use discretion when he told other employees he was going to use all of his leave and then ask for LWOP so that he could show the bankruptcy court that he was not able to pay his financial debts. The RMO stated that when the complainant requested two weeks of leave it was approved, but when he called and requested to be off the remainder of the month it was denied.

**Analysis:** Complainant's alleged indiscretion appears to have contributed to the RMO's decision to take action by denying the complainant's leave or to become a party to fraud, as he perceived it.

**Recommended Preventive Measure:** Base decisions on fact, not hearsay. Ensure employees receive annual ethics training and become familiar with leave procedures and policies.

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**Resources to Accomplish Desired Results  
are not Available or Not Appropriately  
Utilized:  
Organizational Resources**

**Complainant's Perspective:** The complainant felt she was discriminated against based on race and sex, when she was denied the opportunity to participate in training specific to her position. She compared her situation to that of a female of a different race within her service, who was receiving the requested training.

**RMO's Perspective:** The RMO stated that the female referenced by the complainant was not a similarly situated employee, until recently. She was a student intern from a local university, who was a recent hire. However, the training was obligated pursuant to a

contract made by the agency with the university when she was a student. Therefore, the employee's participation in the training the complainant desired was to fulfill a contractual obligation.

**Analysis:** A survey of the general environment of the section revealed that all employees, with the exception of the recent hire, were of the same race, as is the RMO. They are also all female.

**Recommended Preventive Measure:** Open communications between supervisors and employees should be encouraged. Keep employees informed on things that impact them.

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**Resources to Accomplish Desired Results  
are not Available  
or Not Appropriately Utilized:  
Human Resources**

**Complainant's Perspective:** The complainant believed she was discriminated against based on race, when she was not offered the same salary as the other Medical Records Technician (MRT), who were hired from outside VA with no prior government service. The complainant was hired as a GS-6/1, the other two MRT's were hired as GS-6/5. The complainant provided she had the same credentials and certifications as the other employees.

**RMO's Perspective:** The RMO stated he was not aware of the complainant's entry-level salary. He provided that MRT is a hard to fill position, so special resources are available to recruit and hire employees, including offering higher than the entry level GS-6/1 salary. The RMO said as a recruitment tool, new MRT's are allowed to negotiate a salary that would match or increase the salary they made as an MRT on the outside. He contends that he does not know why the complainant was not offered this opportunity.

**Analysis:** Additional fact-finding discovered that the complainant was not made aware that she could negotiate for a higher step upon her acceptance of the position. The complainant's credentials and licensing were the same as the

other MRT's, she also had supervisory experience in her field, and her previous salary at time of hire was about the same as the other MRT's. All variables being equal and the resources being available, the complainant should have been hired under the same special authority, at a GS-6/5.

**Recommended Preventive Measure:**

Salaries should be commensurate to the position and the responsibilities of the position. A bonus would be more appropriate. HRMS should have advised the supervisor regarding various recruitment incentives. Once supervisor was informed, he should have pursued the issue.

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**Rules and/or Regulations are not Established, Published, or Adequately Disseminated Opening up to Many Interpretations:  
Between Supervisor and Employee**

**Complainant's Perspective:** The complainant believed she was discriminated against based on reprisal, when her work schedule was changed. She stated that the Chief changed her work schedule and hours and discontinued her compressed work schedule. He also issued her memorandums about patient scheduling, procedures, and her work performance. The complainant provided that, the Chief also gave her a memo regarding his perceptions about her disrespectful attitude and behavior towards him. She asserted that she is the only full-time dentist, and she rotates through different procedures with the dental residents. The complainant indicated that the residents and other dentists are only seeing patients a couple of days each week; but in her case, the Chief said she had to schedule appointments between 4 p.m. and 5 p.m. to justify being on a compressed work schedule.

**RMO's Perspective:** The RMO stated that although he is aware of the complainant's previous EEO complaint activity, he has not discriminated against her. He stated that the complainant is the only full-time Staff Dentist. The RMO contended that as the Chief, he had the right to change the complainant's work schedule, her patient scheduling practices, and to discontinue her compressed work schedule.

He also stated that he was within his rights (after he consulted with the union president) to issue the complainant memorandums regarding her work performance and conduct. The RMO explained that he changed the complainant's work schedule and discontinued her compressed work schedule, because she was not in compliance with the conditions of an April 27, 1999 memo that outlined the conditions of her being on a compressed work schedule. In particular, he stated that she was not scheduling appointments from 4 p.m. through 5 p.m. on a daily basis. The RMO stated that because the complainant was given to emotional outbursts when he tried to bring certain subjects to her attention, he did not meet with her regarding her behavior or the drop in her productivity. He also stated that he did not counsel her because he did not like to discipline the staff. However, he asserted that he issued the memorandums to her, because it had reached a point in which he had to do something. She was the only full-time dentist, and others (less than full-time dentists and interns) assigned to the Dental Service are not similarly situated to her in terms of work schedules and performance standards.

**Analysis:** There is a record that the complainant had filed an earlier EEO complaint against the RMO. It appears that the RMO and the complainant have some issues to work out in order to avoid continuous conflict and adverse working conditions.

**Recommended Preventive Measure:**

The use of mediation, as well as consultation with Human Resources regarding conduct issues. Progressive discipline should be implemented.

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**Rules and/or Regulations are not Established, Published, or Adequately Disseminated Opening up to Many Interpretations:  
Within Services or Departments**

**Complainant's Perspective:** The complainant believed he was discriminated against based on sex, when he was suspended for 15 days. The complainant used official Human Resources procedures to request his father's OPF from the National

Records Center. The complainant's father, now deceased, previously retired from another federal agency (not VA). The complainant stated that he ordered the OPF to see the beneficiary information. He stated that his father's wife at the time of his death received "around \$25,000.00" and he felt these benefits were owed to him and his sister. Complainant stated that he did not believe he made an error in requesting the OPF.

**RMO's Perspective:** The RMO stated that the complainant misused his government position in violation of 5 CFR Part 735, Section 203, Conduct prejudicial to the Government, 5 CFR Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 293, Section 293.108, Rules of Conduct, and Medical Center Policy 05/43 dated 02/15/97, Common Standards of Conduct and Ethics. The RMO further stated that the complainant was given ample opportunity to justify his actions in writing and verbally following the issuance of a Notice of Proposed Suspension, but insisted he did nothing incorrect, while freely admitting to the allegation against him.

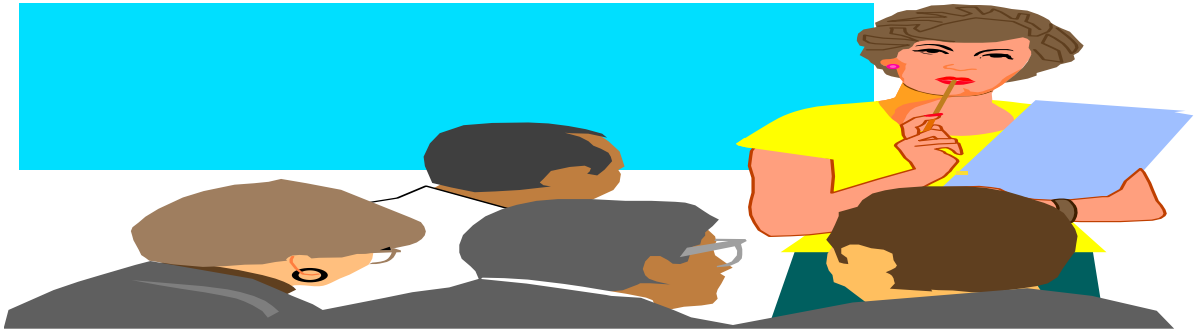
**Analysis:** Fact-finding revealed that the complainant utilized agency procedures and resources in pursuit of a personal probate matter, which resulted in negative consequences for him.

**Recommended Preventive Measure:** Familiarization with policies on release of information, Privacy Act, etc., and work ethics.



# VALUES:

Working with People  
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All of us are influenced daily by our values. We are aware of some values, but others have been learned at such an early age that we do not recognize we are behaving in accord with them. In working with people, it is important to be aware of their values and our own. It is the first step towards understanding.

Values are abstract concepts of worth or what we think is good. They guide the way we act and feel about certain things, situations, and people. Tolerance for the value systems of others is an important attitude in human relationships. It increases understanding and makes working relationships easier.

A value is not itself either good or bad. Values can and do change. This is easy to see when we consider how the standards for male or female behavior have changed over time. When we travel to other areas, we can see that other people look at the world differently, interpret what they see in other ways, and have feelings about situations that are different from ours.

**EXPRESSION OF VALUES:** Values, of course, are expressed verbally and non-verbally. We have to become aware of how we may communicate them to others unconsciously. For example, I joined a nutritionist on her rounds in a low-income neighborhood. One of her personal values was cleanliness. It was one of her professional values to relate well to the families she visited. As she talked with one family very pleasantly, she rubbed her finger across a greasy stove and grimaced. Her displeasure was immediately communicated. This gesture caused a barrier in communication and she would need to control that behavior in order to be effective in her work.

In our rapidly changing society, values have become ambiguous for more and more people who move often, have varied lifestyles and less contact with others in our family, we are finding it more difficult to know what is right or wrong and to figure out what is the norm for society.

This can cause problems. Rapidly changing values can cause confusion and alienation. In his book, *Future Shock*, Toffler suggests that it can make us ill. Some people respond to the changes by making their own value system all the more rigid. In the process they lose flexibility and understanding.

**WORKING WITH GROUPS:**

In working with groups, it is better to do just the opposite. This does not mean that one should compromise one's values. But we have to recognize that other people's reasons are as legitimate as our own. To understand why people believe as they do, it is important also if we want to generate their support for a particular goal.

If we work towards understanding different values, we get closer to building a common ground. When we are tolerant of other's beliefs, it is easier for us to develop working relationships and a solid base for accomplishing goals.

Before we can understand someone else, we have to understand ourselves. Knowing ***what*** makes us behave the way we do, lets us choose ***how*** we want to act in order to be more effective in working with other individuals and groups.

# *Steps in Changing One's Own Behavior*

In You and Me: The Skills of Communicating and Relating to Others, *Gerald Egan* outlines three basic courses of action that are taken to produce behavioral change: exploring, getting new perspectives, and acting.

1. Exploring. One must become familiar with one's behavioral patterns before one can attempt to change them. Egan suggests that we explore what we like and dislike about how we act. Perhaps we like the ways in which we perform in crisis situations but dislike the ways in which we react to little annoyances. We should analyze our own behavior in as much detail as possible. Without specific, concrete behavioral examples in mind, it is nearly impossible for us to effect change.

2. Getting New Perspectives. It is very difficult to look at oneself objectively. We all have behaviors and mannerisms of which we are practically unaware. In addition, there may be patterns to our responses (we always become tense in certain situations, for example) that we do not recognize but which those close to us can see plainly. Therefore, it can be very helpful to ask a spouse, partner, or friend to provide feedback on one's behavior and how others perceive it.

3. Acting. Self-analysis is of no use unless an action plan is developed and steps are taken to effect change. Once unwanted or undesirable behaviors have been identified, the next step is to identify desired behaviors. In Egan's model, identifying desired behaviors, creating an action plan, and initiating action are subparts of one, continual step. The question is how to replace the undesired behaviors with the desired ones. The answer is to think of a solution (an action plan) and then to make a conscious effort to implement that action plan whenever the situation arises.

These three steps are suitable for an individual who wants to effect change on his or her own. The steps become more specific and detailed within the scope of a training program. In a behavioral-change program, the steps would take the following form:

1. Learning core interpersonal skills. In order to change one's behavior, one first must be proficient in using the basic interpersonal skills of self-presentation, responding, and challenging. Egan refers to these skills as the "building blocks of further interpersonal change"
2. Getting feedback on one's skills. In a group setting, other members can give feedback on how well a person is using the core interpersonal skills, thus helping that person to learn faster by immediately bringing mistakes or progress to his or her attention.
3. Learning group-specific skills. Another advantage to learning in a group is that one can practice using interpersonal skills with different people. This provides situational flexibility and adaptability, which serves to enhance people's confidence in using the skills.

4. **Practicing interpersonal assertiveness.** The process of learning interpersonal skills (having to interact with others) encourages assertiveness. This is because a person who feels prepared to deal with others will be less likely to withdraw, be defensive or hostile, or back down. Interpersonal-skills training helps to teach assertiveness rather than passiveness or aggressiveness.

5. **Discovering patterns.** The self-analysis involved in a behavioral-change program helps people to become more aware of their unique patterns of behavior with others. Becoming aware of these patterns is essential to changing unwanted ones.

6. **Getting feedback on patterns.** Feedback from others can help people to recognize the differences between the ways in which they see themselves and the ways in which others see them.

7. **Recognizing payoffs.** If a person is able to recognize the benefits that will result from changing his or her behavior, these potential payoffs can act as motivating factors that will provide encouragement in times of frustration or extensive effort.

8. **Seeing different possibilities.** Learning interpersonal skills and examining responses to one's behavior can help to broaden narrow horizons of behavior. One may realize that one's usual response to a situation is not the only option. One may become more open minded and considerate of other patterns of behavior.

9. **Experimenting with new behavior.** This factor is related to seeing new possibilities. Open mindedness allows people to "try on" new ways of behaving.

10. **Evaluating oneself and receiving feedback.** As people "try on" new behavioral patterns, they automatically perform self-evaluations of the new behaviors and decide whether or not the new ways are better than the old. Likewise, other members of the group can give objective feedback on the new behaviors.

11. **Transferring what one has learned.** The final step is transferring the learning, that is, using the new behavior in one's everyday life outside the training group. This is the ultimate goal of behavioral-change training: to effect permanent change in the participants' lives.